

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO ex rel. )  
State Engineer, )  
Plaintiff, )  
vs. ) 69cv07941-BB  
ROMAN ARAGON, et al., ) RIO CHAMA STREAM SYSTEM  
Defendants. ) Section 3, Rio Cebolla

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DEPOSITION OF CHARLIE CHACON

1:00 p.m.  
December 17, 2009  
New Mexico State Engineer's Office  
130 South Capitol Street  
Santa Fe, New Mexico

PURSUANT TO THE RULES OF CIVIL PROCEDURE, THIS  
DEPOSITION WAS:

TAKEN BY: GABRIEL WADE, Attorney for the  
State Engineer's Office  
REPORTED BY: PEGGY A. SEDILLO, NM CCR NO. 88

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1 And to do away with this water here is -- I don't quite  
 2 agree with.  
 3 **Q. Okay. But what you're saying is, that you know**  
 4 **that this area is a seeped area that's always wet?**  
 5 A. Not always, because I don't know if you're  
 6 aware -- Have you seen a picture where they picked up this  
 7 hay?  
 8 **Q. I've seen a picture, an old picture.**  
 9 A. Yes, with a big load of hay.  
 10 **Q. Right.**  
 11 A. Did you notice how wide those tires -- those  
 12 wheels were on the wagon?  
 13 **Q. I did not.**  
 14 A. Okay. And if it's seepage and thick, you can  
 15 cut through. And let me clue you on some more in case --  
 16 On the other side, on Elmer's side, I've seen them cut  
 17 hay. There was a Mr. Sydney who was a cattle grower  
 18 there, and I saw him cut hay on the other side.  
 19 So this is very variable, it could change  
 20 overnight, and then, what, we're ruined. Elmer and myself  
 21 will be ruined because something happened -- It could  
 22 become also a development. Not my side, the upper side  
 23 could become a development.  
 24 **Q. Right, I understand what you're saying.**  
 25 A. Yeah. They have city water there. Very good

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1 well there that's providing that water for home sites.  
 2 **Q. So just one last question regarding Exhibit Q --**  
 3 **or maybe two questions. You didn't actually write this**  
 4 **letter?**  
 5 A. No.  
 6 **Q. That would have been Gerald?**  
 7 A. I don't remember rightly.  
 8 **Q. Okay. Would you know why, then, in the text of**  
 9 **the letter the Alfalfita is referred to as a lateral of**  
 10 **the Old Valdez?**  
 11 A. I don't know why it's -- that was a pretty -- a  
 12 word that probably was not quite understood. But if it's  
 13 a lateral, the other properties is -- I don't know what  
 14 the Alfalfita -- The Alfalfita was originally, the way I  
 15 saw it, was originally coming from the Valdez Ditch all  
 16 the way, and ended up in the Alfalfita as a benefit.  
 17 **Q. And one more question regarding the Valdez**  
 18 **Ditch. Was it always called the Old Valdez Ditch, or was**  
 19 **it also called the Canuto Valdez Ditch?**  
 20 A. It was called the Old Valdez Ditch.  
 21 **Q. Okay. And what do you know -- where is the**  
 22 **Canuto Valdez Ditch?**  
 23 A. The Canuto Valdez Ditch happens to be another  
 24 source of water -- was -- is the Rito Medio.  
 25 **Q. So the Old Valdez Ditch and the Canuto Valdez**

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1 **Ditch are not the same?**  
 2 A. No.  
 3 **Q. So the Old Valdez, the way you understand it,**  
 4 **has always been the Old Valdez Ditch?**  
 5 A. Yes, sir.  
 6 **Q. It's included in what we also call the Alfalfita**  
 7 **Ditch?**  
 8 A. Yes, sir.  
 9 **Q. But it does not include the Canuto Valdez Ditch?**  
 10 A. Right.  
 11 **Q. Does the Canuto Valdez Ditch feed the Old Valdez**  
 12 **Ditch?**  
 13 A. It probably -- it's quite an outstanding  
 14 drainage. It's kind of a draw that -- any runoff or  
 15 anybody that leaves water running up above will have to  
 16 come down in this draw and then end up in the Old Valdez  
 17 Ditch.  
 18 **Q. Okay. You referred to in one of the affidavits**  
 19 **or one of the letters -- I think the letter you wrote, the**  
 20 **Hall mill?**  
 21 A. Yes.  
 22 **Q. And do you recall a saw mill, lumber mill, do**  
 23 **you recall seeing that lumber mill?**  
 24 A. Yes, sir.  
 25 **Q. It was still intact in your lifetime?**

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1 A. I remember hearing the call for vapor with  
 2 power. That's why I'd like to ask -- Well, there's too  
 3 many things that -- in a wish book, but I know this is  
 4 more important, so we'll just go ahead and...  
 5 **Q. Okay. Do you recall that mill?**  
 6 A. Yes, sir.  
 7 **Q. Was it in working order?**  
 8 A. Yes, sir.  
 9 **Q. In your life time?**  
 10 A. Yes, sir.  
 11 **Q. Okay. And what years were that, do you recall**  
 12 **it?**  
 13 A. I must have been five years old. So it was in  
 14 1925, possibly.  
 15 **Q. That's when it was built?**  
 16 A. No, it was in operation.  
 17 **Q. But you don't know when it was built?**  
 18 A. No. I when I was five years old I remember  
 19 hearing the power -- you know what I mean, the whistle,  
 20 and I remember they had a well right there that would  
 21 furnish water for whatever they were using power for.  
 22 **Q. Did a ditch feed the mill?**  
 23 A. I understand it did, yes.  
 24 **Q. Do you know which ditch that was?**  
 25 A. That had to be the Old Valdez Ditch.

14 (Pages 50 to 53)

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1 **Q. The Old Valdez Ditch?**  
 2 A. Yeah. Because as I understand it, that photo  
 3 you showed me a while ago, I understand he was the owner  
 4 of that upper mill up there in Tia Josefa, then he moved  
 5 down to the lower area.  
 6 **Q. The picture you're referring to, I think is**  
 7 **what -- whoever marked it as Exhibit B -- but it's part of**  
 8 **my Exhibit O that's two pictures on one page. Are those**  
 9 **the pictures you're talking about?**  
 10 A. This is the original before he moved to Leandro  
 11 Montoya's place.  
 12 **Q. Okay. And that's the one you remember?**  
 13 A. No.  
 14 **Q. You do not remember the original saw mill?**  
 15 A. No.  
 16 **Q. So we're talking about two different saw mills?**  
 17 A. This is a lot older than a lot of -- But I  
 18 remember the one on the Montoya.  
 19 **Q. And that's the lower portion of the property?**  
 20 A. Yes, sir.  
 21 **Q. And that's what you remember from 1925 or so?**  
 22 A. Yes.  
 23 **Q. So do you know anything about the older upper**  
 24 **mill?**  
 25 A. All I've heard is that they had a big, big mill

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1 and they were using water from the Valdez.  
 2 **Q. The Old Valdez Ditch?**  
 3 A. Yes.  
 4 **Q. Okay. And the lower mill, which ditch did that**  
 5 **mill --**  
 6 A. That had to be the Old Valdez Ditch, because it  
 7 was running through the property.  
 8 **Q. Okay.**  
 9 A. Through the Montoya to the -- you know, where I  
 10 was born and raised.  
 11 **Q. Okay.**  
 12 A. Leandro Montoya.  
 13 **Q. Leandro Montoya?**  
 14 A. Yeah, Leandro Montoya.  
 15 **Q. Okay. Do you know who Donislado Martinez is?**  
 16 A. Yes, sir.  
 17 **Q. And do you know what his son's name is? Is his**  
 18 **son's name Venceslao? Or do you recall?**  
 19 A. No, but I've heard him mentioned somewhere  
 20 along --  
 21 **Q. The way?**  
 22 A. -- water rights.  
 23 **Q. Okay. But do you know who Venceslao is?**  
 24 A. Venceslao was the son of the man that used to  
 25 own Deflin's property up in the mountains.

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1 **Q. Okay. And he was the person who owned the land**  
 2 **that Delfin Quintana now owns?**  
 3 A. No. No, I'm not saying -- I think he owns  
 4 Lucas, used to own Lucas Cordova.  
 5 **Q. But you're not sure about that?**  
 6 A. I'm not sure about it, I've just heard the name.  
 7 **Q. Okay. Thank you very much. I think that will**  
 8 **conclude the deposition.**  
 9 **CROSS-EXAMINATION**  
 10 **BY MR. TRUJILLO:**  
 11 **Q. Just a minute, Charlie, I have some**  
 12 **clarification questions.**  
 13 A. Okay.  
 14 **Q. You had talked about Canuto Valdez Ditch and**  
 15 **Canuto Valdez, and you answered a question that he was the**  
 16 **first one to establish water rights on that ditch. Do you**  
 17 **remember that answer?**  
 18 A. Yeah, but I don't think -- I did the wrong  
 19 quote.  
 20 **Q. What do you mean? What is it that you're trying**  
 21 **to say about his relationship to one of the ditches there?**  
 22 A. The relationship is still -- I still say that  
 23 it -- and I don't know enough about the Canuto Valdez  
 24 Ditch other than in the last few years I've known about  
 25 it, but it was still -- when I was growing up, it was a --

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1 Valdez Ditch that I was concerned with, and the Valdez  
 2 Ditch, not the Canuto Valdez, the Juan Desiderio Valdez  
 3 Ditch.  
 4 **Q. Where is the Canuto Valdez Ditch on either**  
 5 **Exhibit B or C?**  
 6 MR. WADE: It will definitely not be shown on  
 7 Exhibit B, and -- I don't know if you mind me telling you,  
 8 but it's not marked, but it is shown on Exhibit C.  
 9 **Q. What do you understand would be -- Have you**  
 10 **heard about the Canuto Valdez Ditch?**  
 11 A. I heard about it years back as I was quite a bit  
 12 older when they had some sort of things going against  
 13 Cordova and Valdez, but I'm not aware exactly what they  
 14 were fighting for.  
 15 **Q. Okay. But there is such a ditch?**  
 16 A. There is such a ditch.  
 17 **Q. And you know where it is?**  
 18 A. And right now, yes.  
 19 **Q. Okay.**  
 20 A. I can walk to it.  
 21 **Q. Okay. So on Exhibit C, would you be able to**  
 22 **locate it on Exhibit C? If you can.**  
 23 A. Let's see. Is that it?  
 24 **Q. I'm just asking what you think it might be, but**  
 25 **if --**

15 (Pages 54 to 57)